

REMARKS/ARGUMENTS

Claims 1, 2, 4-26, 28 and 29 are pending and remain as presented in the Amendment filed on February 17, 2010. Claims 1, 2, 4, 5, 7-26 and 28 are rejected as obvious in view of the combination of Kawasaki (JP 1996-08266211) and Nelson (US 4,456,626), and claims 6 and 29 are rejected as obvious in view of the combination of Kawasaki and JP '030 (JP 58-183030). Applicants respectfully traverse these rejections.

The present invention relates to a fat and oil composition for bakery products and a bakery product using the same, for example bread, cake and frozen dough for bread. More specifically, the claimed fat and oil composition comprises 50-85 parts by weight of (A) edible fat and oil, 10-35 parts by weight of (B) an emulsifier, and 0.1-10 parts by weight of (C) a humectant, wherein (i) (A)/(B) is 6.5 or less, (ii) 75 wt% or more of the fatty acid residues of (A) are unsaturated fatty acid residues, and (iii) at least 80 wt% of the emulsifier constituting (B) is glycerin fatty monoester and propylene glycol fatty monoester (see e.g., claim 1 - reference numerals added for discussion purposes).

In light of the Kawasaki and Nelson rejection over the independent claims, Applicants previously argued:

“In rebuttal to the Office’s allegations of equivalence [of the emulsifier systems of Kawasaki and Nelson], Applicants note that the emulsifiers disclosed by Nelson are hydrophilic (see col. 2, lines 11-13) whereas the emulsifiers disclosed by Kawasaki are lipophilic/hydrophobic¹. Accordingly, contrary to the Office’s allegations, such emulsifiers having virtually opposite solubilities in polar/non-polar solvents would not be considered “equivalent” to one skilled in the art.” (See Amendment filed on February 17, 2010, page 9).

In response to these arguments, the Office currently asserts:

“the component used in Kawasaki is not limited to glycerine fatty monoester, and may include polyglycerol fatty [acid] monoesters ([0008] of Kawasaki)” (Office Action, page 10).

¹ Applicants note that it is common knowledge to one skilled in this art that glycerine fatty monoester, like that disclosed by Kawasaki, is a lipophilic compound having an HLB value of approximately 3.

While it may be true that paragraph [0008] of Kawasaki discloses that the glycerol fatty acid esters include glycerol fatty acid monoesters, glycerol organic acid fatty acid monoesters and polyglycerol fatty acid monoesters, not just glycerine fatty monoester, Applicants note that paragraph [0008] of Kawasaki also discloses that the “fatty acids used here should be stearic acid, palmitic acid, myristic acid and other long-chain saturated fatty acids used singly or mixed together.” Applicants also note that the hydrophilicity and lipophilicity of glycerol fatty acid esters is highly dependent on the kind of fatty acid included in the glycerol fatty acid esters.

Accordingly, since Kawasaki expressly recites what fatty acids “should be used” and those fatty acids are all very lipophilic/hydrophobic (i.e., HLB values < 4), one skilled in the art considering the *entirety* of paragraph [0008] of Kawasaki would understand that the “emulsifiers disclosed by Kawasaki are lipophilic/hydrophobic” as Applicants previously argued. Furthermore, given the *entire* disclosure of paragraph [0008] of Kawasaki, it appears that the Office’s reliance on the recitation of “polyglycerol fatty acid monesters,” in the absence of the further definition of the fatty acids, is flawed. Therefore, Applicants again submit that the emulsifier systems of Nelson (i.e., hydrophilic) and Kawasaki (i.e., hydrophobic/lipophilic) are not “equivalent,” *even in light of paragraph [0008] of Kawasaki*. As such, Applicants again submit that one skilled in the art would not find it obvious to merely replace one emulsifier system with the other as alleged by the Office, due to the opposite nature of these systems, i.e., one being hydrophilic and one being hydrophobic.

In light of the Office’s dismissal of Applicants’ previous arguments having been based on the faulty premise that Kawasaki is not limited to hydrophobic/lipophilic emulsifiers, Applicants respectfully request reconsideration of the response filed on February 17, 2010 and withdrawal of the outstanding obviousness rejections relying upon Kawasaki.

Notwithstanding the above, Applicants submit herewith a Declaration by Mr. Yoshihide Asabu that includes additional evidence of the superior results of the claimed invention over the prior art.

More specifically, Applicants note that Table 12 of the Declaration includes “Product of the Invention A” as originally provided in the specification of this application in Table 1 (page 31) as well as the corresponding results (i.e., softness, moist feel, and melting feel in the mouth) in Table 4 (page 37) for “Example 1” which includes the fat and oil composition A (see Table 3 on page 34). Additional products 2 and 3 of Table 12 of the Declaration (within the scope of the present invention) have been provided to show the criticality of the mixing ratio of the glycerin fatty monoester (sometimes noted as B-1) and the propylene glycol fatty monoester (sometimes noted as B-2) of component (B) as recited in claim 4.

Additional products 1 and 4 (outside the scope of the present invention) have been provided to show the inferior nature of fat and oil compositions that do not contain *both* glycerin fatty monoester (B-1) *and* propylene glycol fatty monoester (B-2).

Additional product 5 (outside the scope of the present invention) has been provided to show the inferior nature of a fat and oil composition that uses a *control* polyglycerine fatty acid monoester as component (B-1) (i.e., noted in Table 12 of the Declaration as “control to (B-1)”) rather than the *inventive* glycerine fatty monoester as component (B-1).

Lastly, additional product 6 is equivalent to Nelson (US 4,456,626) and has been provided to show the inferior nature of a fat and oil composition that uses propylene glycol fatty monoester as (B-2) as claimed, but uses a *control* polyglycerine fatty acid monoester (B-1) (i.e., noted in Table 12 of the Declaration as “control to (B-1)”) in place of the *inventive* glycerine fatty monoester (B-1).

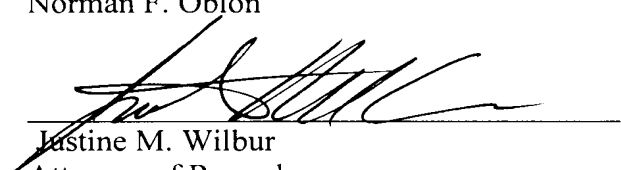
In light of the above-described additional products of the Declaration, Applicants submit that the fat and oil composition of the present invention, which includes 10-35 parts

by weight of (B) an emulsifier wherein 80% by weight of (B) is (B-1) glycerin fatty monoester and (B-2) propylene glycol fatty monoester, provides superior bakery products having enhanced softness, an enhanced moist feel, and an enhanced melting feel in the mouth. Applicants further submit that the cited art of record, alone or in combination, does not render obvious the fat and oil composition of the present invention which provides such superior bakery products. Accordingly, Applicants again respectfully request withdrawal of the outstanding obviousness rejections of record.

For the reasons discussed above, Applicants submit that all now-pending claims are in condition for allowance. Applicants respectfully request the withdrawal of the rejections and passage of this case to issue.

Respectfully submitted,

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